

other purposes, with Mrs. TAUSCHER (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 16 printed in House Report 110-450 by the gentleman from Georgia (Mr. PRICE) had been postponed.

AMENDMENT NO. 5 OFFERED BY MR. WATT

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110-450.

Mr. WATT. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WATT:
Page 60, line 3, strike "or" and insert "and".

The Acting CHAIRMAN. Pursuant to House Resolution 825, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Madam Chairman, this amendment, on its face, is very, very simple, although I expect there will be some controversy about it. The amendment simply changes one word. The word is "or." We change the word to "and" in the bill instead. You would think that would be noncontroversial, but let me get into the effect of that.

Currently, if an assignee of a mortgage has policies and procedures not to buy subprime loans that do not meet safe harbor provisions that are in this bill, or if the assignee is willing to cure such loans, the assignee has no liability until you get to a foreclosure situation. That's very complicated, I understand; but that's what the bill provides.

The effect of the amendment would be to require the assignee to have policies and procedures in place and do certain things and be willing to cure the loan to avoid being liable for rescission.

That's important because if you give the option to an assignee of either curing or having policies and practices that are responsible in place, an assignee can then just treat the cure as a cost of doing business, and it becomes an ineffective choice. But if they are obligated to both have the policies and procedures and protections in place, and be willing to cure the loan, then they are not going to exercise the option to do the least onerous one of those things.

It is a simple provision, a simple change, although I understand the arguments against it.

And I will, having created the framework and explained what we are trying to do, reserve the balance of my time.

Mr. BACHUS. Madam Chairman, I rise to claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Alabama is recognized for 5 minutes.

Mr. BACHUS. Madam Chairman, as has been discussed both in committee and on the floor of the House this morning, this legislation is a result of Democrats joining with Republicans. Not all. I mean, many Republicans are opposed to this legislation.

But after 2 years of trying to address the subprime lending crisis, many Members of this body came together to craft legislation. That legislation is not perfect, nor will it be. I have concerns about it.

My Members, many of them, are particularly concerned about the liability provisions. And this amendment fundamentally unravels, at least a consensus that some of us have reached with the other part by gutting the safe harbor contained in the legislation that is critical to the functioning of the secondary mortgage market. Without liquidity provided by the secondary market, the homeownership dreams of millions of Americans, particularly low- and middle-income Americans, will simply not be realized.

If this amendment is enacted, the safe harbor for the secondary market would disappear because notwithstanding the satisfaction of the statutory elements of the safe harbor, securitizers would be required to cure any violations of the bill's minimum standards by a creditor. This would effectively eliminate any benefit from the conduct of due diligence by secondary market participants that this bill is intended to promote. Deprived of that safe harbor, securitizers would simply stop purchasing loans. The effect on the availability of mortgage credit and on the housing market across the country would be devastating.

Madam Chairman, I reserve the balance of my time.

Mr. WATT. Madam Chairman, I reserve the balance of my time.

Mr. BACHUS. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding. I too share great concern about this amendment. I've had concern about assignee liability in this legislation to begin with. But I at least recognized the benefit of having a so-called safe harbor provision.

As I looked at the safe harbor, I was somewhat fearful that there were still some dangerous reefs that were lurking beneath the waves. I'm fearful if this amendment is passed not only will those dangerous reefs be present, but any harbor will have disappeared as well.

Again, we need to step back and decide, on this entire issue of assignee liability, when we look at all the resets that are due to happen in the market, will this legislation add liquidity to the market? Will it subtract liquidity from the market?

For people who are trying to keep their homes, over and above whatever the market is providing, are the actions of us in this body going to exacer-

bate the situation and dry up even more liquidity?

I think this is a major amendment, that whatever balance was struck in this area completely removes that balance. And I think it will provide for an explosion of liability exposure that could be very, very damaging to the secondary market.

I've heard the distinguished chairman of the committee on a couple of occasions refer to Chairman Bernanke's comments on the subject. And I'm not sure I've seen where he's actually advocated assignee liability, although he has acknowledged that, under certain circumstances, in a very limited situation, it might be helpful.

But I also saw in his testimony before our committee, if I can quote from the chairman: "We've seen from different States different experiences and there have been examples where assignee liability provisions have driven lenders out of the State."

Let's not drive them out of the Nation. Let's reject this amendment.

□ 1530

Mr. WATT. Madam Chairman, I reserve the balance of my time.

Mr. BACHUS. May I inquire as to how much time is remaining?

The Acting CHAIRMAN. The gentleman from Alabama has 1 minute remaining. The gentleman from North Carolina has 2½ minutes remaining.

Mr. BACHUS. Madam Chairman, if this amendment is adopted, it's going to seriously damage this bill. I urge all of my colleagues to resist this amendment.

Madam Chairman, I yield the remaining time to the gentleman from North Carolina.

Mr. MCHENRY. I thank the ranking member.

In brief, my colleagues must understand the simplicity of this amendment. What it would say is the secondary market has to give a road map for those who are facing foreclosure for them to get out of their mortgage. In essence, what it says is, if you want out of your mortgage, here's the road map to do it.

I think this would be a destructive influence on the market. It would further undermine the secondary market and the liquidity in the marketplace and would further harm home ownership. I urge my colleagues to oppose it.

Mr. WATT. I yield myself the balance of the time, and I assure you, I won't use it.

The arguments that have been made are absolutely correct with respect to 99 ⁴⁴/₁₀₀ percent of the people operating in the market. These are not bad people. But this bill was drawn to get at that small percentage of the market that is out of control. And if you give that small percentage of the market the option of either doing some paperwork or curing, as opposed to having to do both of those things, I guarantee you they will take the option that is most cost beneficial to them. And